W. 42; *Courvoisier* v. *Raymond* (1896), 23 Colo. 113, 47 Pac. R. 284; *New Orleans &c. R. Co.* v. *Jopes* (1891), 142 U. S. 18, 12 S. Ct. 109, 35 L. Ed. 919; *Zell* v. *Dunnaway* (1911), 115 Md. 1, 80 Atl. R. 215. See on the subject of *self-defense*, DICEY, LAW OF THE CONSTITUTION, 8th Ed. Note IV, pp. 489-497.

CONSTITUTIONAL LAW—ANTI-TIPPING STATUTE.—Action was brought on a writ of *habeas corpus* to test the validity of a California statute (Laws of 1917, ch. 172) which declared it a misdemeanor for any employer to require or accept from an employee, as a condition of the employment, any part of the tips received by such employee. *Held*, that the statute was unconstitutional as an unwarranted interference with the right of contract. *Ex parte Farbe* (Cal., 1918), 174 Pac. 320.

The majority of the court were of the opinion that the statute would not conduce to the elimination of the custom of tipping, which the court admitted was an evil whose eradication is desirable. No authority was cited except upon the general matter of restriction of contract. It has been held that tips turned over to an employer, in the mistaken belief that he demanded them, could be recovered by the employee. *Polites* v. *Barlin*, 149 Ky. 376; *Zappas* v. *Roumeliote*, 156 Iowa 709. Tips may be included as part of one's earnings, under the workman's compensation acts, *Sloat* v. *Rochester Taxi Co.*, 163 N. Y. S. 904; *Gt. Western Ry. Co.* v. *Helps*, (H. of L.) 1918, A. C. 141. A statute of Mississippi prohibiting the acceptance of tips, and forbidding employers to allow tipping, was assumed to be constitutional in *State* v. *Angelo*, 109 Miss. 624, and *State* v. *So. Ry. Co.*, 112 Miss. 23, although the indictments in both cases were dismissed on other grounds. A Tennessee statute (Laws of 1915, ch. 185) appears never to have been passed on.

CONSTITUTIONAL LAW—RACE-SEGREGATION ORDINANCES.—Plaintiffs sued to enjoin the City of Atlanta from carrying on criminal prosecutions under the city ordinance providing for race segregation. *Held*, injunction should issue. *Glover* v. *City of Atlanta* (Ga., 1918), 96 S. E. 526.

A similar ordinance was passed upon by the Supreme Court of the United States in *Buchanan* v. *Warley*, 245 U. S. 60, and declared unconstitutional. For a discussion of that decision see 16 MICH. L. REV. 109, and 31 HARV. L. REV. 475. The Georgia supreme court had held the ordinance valid in *Harden* v. *City of Atlanta*, 147 Ga. 248. In the instant case, however, it declared itself bound by the decision of the Supreme Court and reversed its original opinion.

EQUITY—JURISDICTION TO CANCEL WHERE LEGAL DEFENSE EXISTS.—A contract for advertising services for twelve months was superseded by another contract for sixty months, which was procured through misrepresentation that the term was only twelve months. In a suit to reform or cancel the second contract, *held* that equity has jurisdiction although the defense of fraud could be made at law. *Smith-Austermuhl Co.* v. *Jersey Railways Advertising Co.* (N. J. Ch., 1918), 103 Atl. 388.

Cancellation, except where there is some independent ground of equitable jurisdiction, must rest upon the *quia timet* principle. Theoretically if an instrument makes a *prima facie* case against the complainant, the fact that he has a legal defence does not oust the jurisdiction of equity; for the legal defence may become seriously prejudiced or even dissipated before he has opportunity to present it. Hence it is commonly recognized that the existence of a legal defence is not a bar to suit in equity . *Buxton* v *Broadway*, 45 Conn. 540; *Fuller* v. *Percival*, 126 Mass. 381; *Metler* v. *Metler*, 18 N. J. Eq. 270, 19 N. J. Eq. 457. The courts of New York have taken a different position. If a legal defence exists the complainant is told that he has adequate protection through perpetuating the testimony of his witnesses. *Allerton* v. *Belden*, 49 N. Y. 373. Perpetuation of testimony, however is but a poor substitute for the actual witness and is unavailable if the witness remains in the jurisdiction. Yet it is common experience that witnesses forget. The undesirability of allowing the holder of an instrument to delay litigation and vex the maker at a remote period was recognized in *McHenry* v. *Hazard*, 45 N. Y. 580, but in *Fowler* v. *Palmer*, 62 N. Y. 533, the doctrine of *Allerton* v. *Belden* was reaffirmed and it is still followed in New York. *Dennin* v. *Powers*, 96 Misc. 252. The principal case is sound on principle and finds general support in authority.

SPECIFIC PERFORMANCE—NEGATIVE CONTRACT—INJUNCTION.—S. entered into a written contract with the complainant, to serve it as editorial writer and have charge of the editorial page of the *New York Tribune* for four years. As part of his undertaking S. covenanted that he would not "write for or contribute to any other publication or periodical" during the term of the agreement. S. broke his contract and entered into an agreement with the McClure Syndicate for a series of articles. Complainant brought suit for an injunction. Backes, V. C., granted an injunction restraining S. from writing for any paper other than the *New York Tribune*. *Tribune Association* v. *Simonds, et al.* (N. J. Ch., 1918), 104 Atl. 386.

Mr. Frank H. Simonds, editorial writer for the *New York Tribune* and defendant in the principal case, has at last achieved distinction by breach of contract. He now belongs to the noble company of which Napoleon Lajoie, Annette Kellerman, and Mlle. Wagner (of blessed memory) are the bright particular stars. The seal of judicial approval is placed upon his unique quality. There is no other writer upon the war who can replace him, and damages however weighty can not compensate his employer. Thus Backes, V. C. It is true that the Vice-chancellor did not accept without qualification counsel's extravagant appraisal of Mr. Simonds, when in one ecstatic moment he said, "The loss to the world of Mr. Simonds's articles would be equal to that of the Huns entering Paris." But Mr. Simonds is unique, extraordinary, irreplacable, *sui generis*. His road to judicial fame was short if rugged. Though his first effort to obtain recognition in the courts was coldly received (*Kennerly* v. *Simonds*, 247 Fed. 822, 16 MICH. L. REV. 547), he was not discouraged. Perseverance brings its own reward.